

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

LEON CAINE,	:	CIVIL ACTION NO. 1:16-CV-2153
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
ELLEN KOLMAN, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 22nd day of November, 2016, upon consideration of the report (Doc. 6) of Chief Magistrate Judge Martin C. Carlson, recommending that the court dismiss the *pro se* complaint (Doc. 1) of plaintiff Leon Caine (“Caine”) for failure to state a claim for which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), wherein Judge Carlson opines that Caine’s threadbare complaint fails to comply with the basic pleading requirements of the Federal Rules of Civil Procedure, but that the court should grant leave to amend and provide Caine an opportunity to cure the defects identified in the report, (see Doc. 6 at 8-12), and it appearing that Caine did not object to the report, see FED. R. CIV. P. 72(b), and the court noting that failure of a party to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should “afford some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing

Univac Dental Co. v. Dentsply Int'l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and the court finding no error in the report and in full agreement with Judge Carlson’s analysis, but the court also noting that, although Caine did not object to the report, he did file an amended complaint (Doc. 7) purporting to cure the defects cited by Judge Carlson, and the court observing, upon review of the amended complaint, that Caine persists in (1) failure to include any well-pleaded facts giving rise to a claim for which relief may be granted and (2) inclusion of a specific demand for damages despite Judge Carlson’s admonition that a demand for a specific sum of unliquidated damages violates Local Rule of Court 8.1, and that the amended complaint must thus be dismissed for all of the same reasons identified in Judge Carlson’s assessment of Caine’s initial pleading, but the court further opining that Caine should be given a final opportunity to revise his pleading to set forth a short and plain statement of his claim in accordance with Judge Carlson’s report and this order, it is hereby ORDERED that:

1. The report (Doc. 6) of Chief Magistrate Judge Carlson is ADOPTED.
2. Caine’s complaint (Doc. 1) and amended complaint (Doc. 7) are DISMISSED without prejudice.
3. Caine is granted one final opportunity to amend his pleading, within twenty (20) days of the date of this order. Any amended pleading filed pursuant to this paragraph shall be filed to the same docket number as the instant action, shall be entitled “Second Amended Complaint,” and shall be complete in all respects. It shall be a new pleading which stands by itself as an adequate complaint under the Federal Rules of Civil Procedure, without reference to the pleadings (Docs. 1, 7) previously filed.

4. This matter is REMANDED to Chief Magistrate Judge Carlson for further proceedings on Caine's anticipated amended complaint.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania